

MEMORANDUM OF LAW

DATE: August 29, 1994

TO: The Honorable Mayor and City Councilmembers

FROM: City Attorney

SUBJECT: Reconsideration of Council Votes and Requests to Change
Vote after Council Hearing is Closed

At their meeting of August 9, 1994, the Mayor and City Council requested that the City Attorney respond to two (2) separate questions arising out of that Council meeting. The two questions relate to motions for reconsideration and requests to change votes.

The issues of reconsideration and change of Council votes were treated at length in a paper Deputy City Attorney Cristie C. McGuire prepared for a training session given to Deputy City Attorneys in September 1992. The law on the issues presented has not changed in any relevant way since that paper was prepared. A copy of that paper is attached (without its attachments) for your reference. The answers to both questions are contained below.

Question 1: How may Council reconsider a vote?

The question of "how" a Council may reconsider a vote is treated on pages 10 and 11 of the attached paper. The answer varies depending on whether the motion is made on the same day as the original vote, or on a later day. It also varies depending on whether the Council vote was taken after a noticed public hearing.

Question 2: May the official record of a Council vote be changed to reflect a change in a Councilmember's vote after the date of the original vote? Specifically, may Councilmember McCarty change her "No" vote in the Seal Marine Mammal Reserve Ordinance.

The short answer is "no", unless the rules governing motions for reconsideration are followed. See pages 4 and 5 of the attached paper. Councilmember McCarty, therefore, may not officially change her vote on the Seal Marine Mammal Reserve Ordinance, because she did not request to do so on the date of the original vote, unless the rules governing reconsideration are followed.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:jrl:011(x043.2)

Attachment

ML-94-71